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OFFICE OF PETITIONS

(Mary) Sharon Rogone (AKA LEE)
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In re Patent No. 6,381,787	:	
Issued: May 7, 2002	:	REQUEST FOR INFORMATION
Application No.: 09/500,736	:	
Filing Date: February 9, 2000	:	
Attorney Docket No.	:	

This is a request for information in response to the petition under 37 CFR 1.378(b), filed August 26, 2011.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed July 11, 2011, and Response to Request for Information filed August 26, 2011. No additional fees are due.

The patent issued May 7, 2002. The 3.5 year maintenance fee could have been paid from May 7, 2005, through November 7, 2005, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from November 8, 2005, to May 7, 2006. Petitioner did not do so. Accordingly, the patent expired at midnight on April 3, 2005. It is noted that the period for paying the 7.5-year maintenance fee has also passed.

Petitioner is required to address the following points:

- Petitioner states that Mr. Kenneth Crouteau was hired as the Chief Operating Officer of Small Beginnings, Inc. around late 2004. Petitioner further states that Mr. Crouteau and Mrs. Rogone were informed by a previous attorney of the need to pay maintenance fees on the patents and Mrs. Rogone believed she put all relevant due dates on a master calendar. In some portions of the Response to Request for Information, petitioner states that Mr. Crouteau was largely responsible for tracking and paying the maintenance fees and in other portions petitioner indicates that Mrs. Rogone shared that responsibility. Petitioner is required to clarify who was finally responsible for tracking and paying the maintenance fee.
- It is noted that petitioner states that Mr. Crouteau really became indisposed in 2006 with many hardships that befell him. Petitioner is required to explain if any steps were taken during this period to transfer responsibility for tracking and paying the maintenance fee to someone other than Mr. Crouteau or Mrs. Rogone who was also suffering her own hardships.
- Petitioner is required to provide more detail for the method/system used to track and pay the maintenance fee. Specifically, petitioner is required to establish that there was a business routine in place for tracking and paying the maintenance fee that could be reasonably relied upon to ensure the timely payment of the maintenance fee.

- If petitioner is asserting that Mr. Crouteau was chiefly responsible for tracking and paying the maintenance fee for a portion of the relevant period, i.e., May 2005 until the present, petitioner must establish that Mr. Crouteau's delay was unavoidable. Petitioner states that Mr. Crouteau was indisposed as of 2006, with familial hardships and illnesses. Yet, there is a period from late 2004 until 2006 where petitioner has not clarified Mr. Crouteau's role. Petitioner must explain whether Mr. Crouteau was responsible for tracking and paying the maintenance fee from May 2005 until 2006. Further, petitioner asserts that Ms. Crouteau was suffered ill health during a portion of the relevant period, i.e., from March 2009, until he passed away in 2010. Petitioner is required to document the period of Mr. Crouteau's ill health. This can be done by submitting copies of medical records and/or notations from the treating physician. Petitioner is cautioned to redact any personal identifiers, i.e., social security numbers and account numbers, as these filings may be accessible to the public.
- Petitioner states that in early 2010, petitioner discovered the patent was expired. Yet, the first petition to reinstate the patent was not filed until July 2011. Petitioner states that during this time, petitioner was researching how to reinstate the patent and trying communicate with the USPTO regarding the same. It seems, however, that well over one year passed between the time petitioner discovered the patent was expired and the petition to reinstate the patent was filed. Petitioner must explain how this entire period of delay was unavoidable.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

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Office of Petitions

cc:
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